



**FEMA's Travel Trailers:
Litigation Considerations
v.
Health and Safety Considerations
And the winner is?**

**U.S. House of Representatives
110th Congress
Committee on Oversight and Government Reform**

**Tom Davis, Ranking Member
July 19, 2007**

Note: The following information was “made available” to Committee staff for review. FEMA refuses to produce the documents containing this information. Emphasis has been added by Committee staff.

- FEMA eschewed testing; litigation concerns trump health and safety considerations.

██████████, FEMA trial attorney
June 15, 2006 9:43 AM

Do not initiate any testing until we give the OK. While I agree we should conduct testing we should not do so until we are fully prepared to respond to the results. Once you get results and should they indicate some problem, the clock is running on our duty to respond to them.

██████████, FEMA attorney acknowledges litigation came first; testing second
Oct 5, 2006

Actually the litigation (Hilliard) was filed on May 12, 2006 and shortly thereafter I met with Kevin and others at which time we began the process of getting testing underway.

██████████ a FEMA field attorney writes on Apr 18, 2006 to FEMA general counsel's office admitting FEMA has been caught flat-footed on the formaldehyde issue:

“I got a visit from our External Affairs folks, who want to know which of the available formaldehyde test protocols FEMA has decided to utilize. **GULP! “I don’t think FEMA has decided how to deal with the formaldehyde issue, and certainly not the testing issue.”**”

Because CNN is in Miss working on formaldehyde in TT/MHs!

That’s the bad news. There is some good news: while I was talking with External Affairs, we got a call from one of the major manufacturers of national housing units (Gulfstream, I think). The manufacturer wanted to get with External Affairs so they could get on the same page. Soooo, we may get the benefit of the manufacturer’s “science” and “public relations” approaches. And know than we do now.
. . . .

External Affairs will keep us informed, and we, and you.

[REDACTED]

[REDACTED]

Field Attorney
FEMA DR-[REDACTED]-MS
[REDACTED]

[REDACTED]

Office of Chief Counsel
FEMA

Oct 5, 2006 12:57 pm

[REDACTED], the litigation attorney on the formaldehyde case, and I just had an extended conversation with [REDACTED] on formaldehyde. **The testing was undertaken because FEMA was sued.** We have already provided press releases and notices to all trailer occupants. The testing was done without a predetermined outcome. The testing is covered under the following exception to FOIA - #5 and has been prepared in anticipation of litigation and is covered under deliberative process privilege, the attorney work product privilege and the attorney client privilege.

[REDACTED] writes
June 16, 2006 11:36 am
Subject: FORMALDEHYDE ISSUE

Good Morning Everyone,

The following is a result of the conference call this morning, Friday, 6/16/06, regarding the formaldehyde issue. At this time, it was decided that we will address this issue on an individual basis.

As needed, we will make the following suggestions to the tenant:

1. Air out the unit.
2. Do not leave the unit closed up during extreme heat
3. Ensure that the air conditioning is running and properly maintained
4. As a final recommendation, we would swap out the unit for a used, renovated unit which would not present the off-gassing problems experienced in the new units.

[REDACTED], [REDACTED] Staging Area, has agreed to set aside approximately 50 units in inventory for the purpose of swapping out units with a formaldehyde problem for the renovated unit.

In the event that testing is required on a national basis, Headquarters Logistics will take the lead in maintaining a single point of contact for completion of this requirement.

Further, OGC has advised that we do not do testing, which would imply FEMA's ownership of this issue.

Gulfstream is working closely with FEMA to resolve the formaldehyde problem in the smaller travel trailer (Cavalier) units. They have offered to install an exhaust fan at their expense on a case by case basis should this become necessary.

██████████ will notify us of HQ OGC's findings, and will reconvene as necessary to address this issue.

██████████
Logistics Management Specialist

- FEMA was aware of health issues associated with formaldehyde.

Summary of [REDACTED] e-mail to FEMA staff acknowledging unsafe formaldehyde levels. The tester himself developed "eye-watering."
Apr 11, 2006 10:35 am
Subject - More re Formaldehyde in Tt/MHs

Following occupant complaints, the TT was tested.

Level of formaldehyde got high only when the TT heated up - as the testing was done with windows closed and ac off.

The end result - well above OSHA standards.

Tester himself developed eye-watering symptoms of exposure.

Makes recommendation to get manufacturers involved; get headquarters involved to get an agency-wide solution started; get science-based help

[REDACTED]
DHS Attorney
OGC in Biloxi
May 16, 2006 5:49 pm

Incidentally, I happened to go over to see a Sergeant in the Army National Guard the other day on other FEMA business and he happened to mention that he has had a trailer for 5 or 6 months now and he has had a problems with smell, sore throats, burning eyes, he says he airs out the trailer every day but it only helps for a little while and then it is worse than ever. Seems like after a few weeks of airing the problem should be gone. I am not expert but it doesn't sound right. He knows its formaldehyde; This guy served in Iraq and says he's lived in worse and doesn't want to look a gift horse in the mouth. But seems a shame he has to live under these conditions.

- Some FEMA personnel downplayed the issue.

[REDACTED] in FEMA Logistics Mgmt writes to agency lawyers urging them not to overreact to the formaldehyde problem:

May 16, 2006 at 5:33 pm

[REDACTED]
We are continuing to work the contracting issues for the testing. CNN has done another story and trying to revive this so we're working diligently to sort all this out to make testing a reality. I have some concerns about overreacting to the formaldehyde issue. Seems like every time we really start focusing on issues such as this they get BIGGER! Just my thoughts. We need to make an effort to provide information, but I don't want to overreact.

[REDACTED]
Logistics Management
FEMA

[REDACTED]
9:35 am
May 18, 2006

I agree we do have to do some testing to request. I just can't understand why out of 15,000 trailers we had in Florida during the 04/05 response/recovery that we didn't have one complaint about formaldehyde. It's really strange that in Louisiana they don't have a single one either, and that no one complained until the press got this from this one guy in Mississippi, now we have a number of complaints in MS. Really strange!

[REDACTED]
[REDACTED]
Logistics Management
FEMA
404-[REDACTED]
